

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re: Rodrick Chatman, :
 : Civil Action 2:07-cv-01051
 : Judge Holschuh
 : Magistrate Judge Abel
 :

Order

Shanda Mathis, the mother of Rodrick Chatman, Jr. removed this child neglect case from the Common Pleas Court for Franklin County, Ohio, Division of Domestic Relations and Juvenile Branch. This matter is before the Court on Mathis's objections to Magistrate Judge Abel's October 23, 2007 Report and Recommendation that this case be remanded to the Common Pleas Court because the complaint does not allege a federal claim for relief.

The removal petition alleges that the action arises under the constitution and laws of the United States. Specifically, the petition alleges that Franklin County Children's Services seeks to interfere with Mathis's fundamental due process right to maintain a parent-child relationship with her son. Mathis's objections make the same argument.

As the Report and Recommendation states, the complaint filed by Franklin County Children's Services in the Common Pleas Court alleged subject matter

jurisdiction solely under Ohio law. Ohio Revised Code § 2153.353. It alleges that Mathis has neglected her child in violation of Ohio Revised Code §§ 2153.03(A)(2) and 2151.04. No federal claims are pleaded in the complaint.

A case may be removed from state court based on federal question jurisdiction, 28 U.S.C. § 1331, only if the complaint pleads a federal claim for relief. *Merrell Dow Pharmaceuticals, Inc. v. Thompson*, 478 U.S. 804, 808 (1986). The plaintiff is the "master of the claim." *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987). Federal defenses to a complaint do not render it removable to federal court. *Rivet v. Regions Bank of Louisiana*, 522 U.S. 470, 475 (1998). Consequently, this state court custody proceeding was not properly removed to federal court.

Shanda Mathis's November 7, 2007 objections to the October 23, 2007 Report and Recommendation are OVERRULED. The Court ADOPTS the Report and Recommendation. This case is REMANDED to the Franklin Court Common Pleas Court, Division of Domestic Relations and Juvenile Branch.

Date: December 10, 2007

/s/ John D. Holschuh
John D. Holschuh
United States District Judge